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EXAMINER

KALINOWSKI, ALEXANDER G

ART UNIT

PAPER NUMBER

3627

21

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/583,336

Applicant(s)

REEVES, WILLIAM F.

Examiner

Alexander Kalinowski

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-57 are presented for examination. Applicant filed an amendment on 9/24/2003, filing a substitute specification, a new abstract, and amending or adding new claims. Since the amendment to the claims filed on 9/24/2003 contains so many inconsistencies that the Examiner cannot determine the scope of the pending claims, the amendment to the claims of 9/24/2003 will not be entered.

Specification

2. The substitute specification filed 9/24/2003 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: a marked up copy of the substitute specification has not been submitted.

Claim Objections

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). The Examiner reminds the Applicant that all claim amendments must be made with respect to the pending claims (original claims 1-28 in the instant application).

Response to Amendment

4. The amendment filed 9/24/2003 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the Examiner notes that the original specification was 9 pages long and the new specification is 18 pages long. In the Background section, Applicant has added new sections directed to the prior art cited by the Examiner in the previous office action. In particular, Applicant added paragraphs discussing the Yeager WO 97/22297 and Sellers, Pat. No. 5,678,562 references which were not part of the original disclosure.

Also, Applicant modified the summary of the invention by adding additional features and description to the means for periodically updating the records stored on the bodily worn device (e.g. A means of linking the BWD to a central Internet web site via a unique BWD serial number ...).

In the detailed description of the Invention section, Applicant added on the last part of page 7, describing Figure 1, a paragraph describing how the bodily worn device is linked to a central internet website (e.g. One important feature of the system is a link between the bodily worn device and a central internet website ...). On page 8, describing Figure 2, towards the bottom of the page, Applicant added a paragraph highlighting the link between the central internet web site and the bodily worn device. Furthermore, the paragraph describes the use of unique serial number codes to identify each user and links them to their patient records stored at the central Internet website.

On page 9, Figure 3, towards the bottom of the page, Applicant has added new matter describing how users may access patient records over the central web site via the Internet (e.g. from the sentence starting with "In addition, when the wearer of a BWD is stricken ...").

On page 10, Figure 4, towards the middle of the page, Applicant has added new matter describing assessing risk factors, assigning numerical risk factors to said conditions for patients/users of preexisting medical conditions (e.g. from the sentence starting with (Figures 7 and 8 and 11 should also be referenced when viewing this figure 4 ...").

On page 11, Figure 5, line 7, Applicant has added new matter describing a portable plug in module that is the interface module. The plug in module obtains electrical power from the patient monitor and routes patients records to the patient monitor for display and provides various cost savings because of the portability of the interface module.

On page 12, Figure 6, towards the middle of the page, Applicant has added new matter in referring to newly added drawings for details for wireless transmission of data and electrical power from the bodily worn device and storage devices to other hardware components of the system.

On pages 12-18, Applicant has added new matter by introducing new Figures 7-11 and adding new description with respect to newly added Figures 7-11. In particular, Applicant has added new details including regarding the software organization, logic and data flow of the system including how the records are organized, use of unique

security codes embedded into the patient's data file as a digital watermark, prioritizing the patients medical records through the use of weighted averages of the risk factors of pre-existing medical conditions, and providing further descriptions on how the data is transmitted wirelessly to and from the bodily worn device.

Applicant is required to cancel the new matter in the reply to this Office Action.

The amendment to the claims filed on 9/24/2003 does not comply with the requirements of 37 CFR 1.121(c) because the changes to the claims as filed do not correspond to the previously pending claims. For example, in claim 1, in the 9/24/2003 amendment, Applicant indicated that the last unamended feature of claim 1 contains the limitation of "a means, through either contact or wireless non-contact, of sending electrical power from the interface wand of the to the Bodily worn device, storage card or storage disk, while simultaneously sending and receiving digital data to the Bodily worn device, storage card or storage disk". However, a careful review of previously pending claim 1 shows that this limitation was not present in the previously pending claim. The same problem appears with respect to previously pending independent claim 16 (i.e. new claim 30 (?) in the 9/24/2003 amendment). In addition, the previously pending claims were from claims 1-28. It seems that Applicant has attempted to replace/renumber pending claims with new claims and/or renumber previously pending claims. It is unclear which features remain pending, which features are being amended, which new features are added because there are so many inconsistencies between the pending claims and the amended claims. The Examiner requests that Applicant submit a new amendment that shows changes being considered with respect to the to the

Art Unit: 3626

pending claims (i.e. originally filed claims 1-28). Applicant is reminded that all amendments must comply with the following rule:

Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR

1.121(c) which states:

(c) *Claims*. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing*. All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1-5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required*. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required*. The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the

Art Unit: 3626

immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, *i.e.*, without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

Claim Rejections - 35 USC § 112

5. Claims 1-57 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

a. With respect to claim 1, Applicant has amended the claim to include limitations directed to "the patient monitor module for interfacing the wireless critical patient information and data with a plurality of existing emergency room patient monitoring models and devices as an add on, plug in device option.

Furthermore, the feature of "a means, through either contact or wireless non-contact, of sending electrical power from the interface wand of the to the Bodily worn device, storage card or storage disk, while simultaneously sending and receiving digital data to the Bodily worn device, storage card or storage disk" is not supported by the specification.

- b. Claims 2-15 which are dependent upon claim 1 are similarly rejected based on their dependency to claim 1. In addition, Applicant added new features to some of the pending claims 2-15 that are not supported by the original specification. For example in claim 4, Applicant added "in a unique weighted average priority" which is not supported in the original specification. Furthermore, Applicant added a similar limitation to claim 6. In claim 8, Applicant added the feature of "receiving said digital records in a wireless fashion, in either synchronous or asynchronous radio frequency transmission" which is not supported in the original specification. The Examiner reminds the Applicant that any amendment to the claims must be adequately supported by the original specification in order to meet 35 USC 112 requirements.
- c. With respect to claim 16 (amended claim 30 of the 9/24/2003 amendment), the amended claim includes similar limitations as noted for claim 1 above and also rejected based on lack of written support for these limitations in the original specification.
- d. The Examiner notes that several of dependent claims 17-28 were amended to include limitations that were not supported by the original specification. These features were similar to the features discussed with respect to dependent claims 2-15 above and claims 17-28 are rejected for similar reasons as for claims 2-15 above.
- e. Claims 17-28 which are dependent on claim 16 are similarly rejected based on their dependency to claim 16.

In addition, the Examiner notes that Applicant attempted to add new claims that are directed to features that were not supported by the original specification. In the amendment dated 9/24/2003, Applicant attempted to add new features within new dependent claims (see claims 16-27 and 44-57 in the 9/24/2003 amendment).

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant attempts to incorporate figures within the claim language. For example, in claim 1, in the limitation of "software for controlling the organization ..." Applicant incorporates by reference Figures 7, 8, and 9. Incorporation by reference to a specific figure is only permitted in exceptional circumstances where there is no practical way to define the invention in words (see MPEP 2173.05(s)). Applicant must remove references to Figures from the claims.

Claims 2-15 are dependent on base claim 1 and are rejected on the same basis due to their dependency on claim 1. In addition, many of the dependent include incorporation by reference to the figures (see dependent claims 2, 6, 7, 10, and 15). Correction to the claims is required.

8. Claims 13, 18, and 23 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. The Examiner notes that claims 13, 18, and 23 of the 9/24/2003 amendment contain more than one sentence. Note the format of the claims in the patent(s) cited.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeager et al., WO 97/22297 (hereinafter Yeager) in view of Sellers, Pat. No. 5,678,562.

As to claim 1, Yeager discloses an apparatus for storing and/or retrieving and/or organizing medical records and other vital personal information from bodily worn storage devices (i.e. medical information storage system including a portable data storage device worn by a person)(see abstract, Fig. 1), comprising:
a bodily worn storage device capable of storing digitized (digital) personal medical records and other vital personal emergency information (i.e. portable data storage device unit 22 includes datacell which contains medical information specific to person wearing device)(page 5, lines 5-15, line 28 - page 6, line 2 and Table 1)

Art Unit: 3626

a portable field unit with a unique interface wand capable of retrieving digital patient records and information from the bodily worn device and transmitting said digital information by wireless means (i.e. medical information from database 1124 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from database 1124 in wireless fashion)(page 5, lines 18-23)

a base unit capable of receiving said digital medical records and information and organizing them into readable and medically significant information for emergency medical treatment options (i.e. handheld reader displays the medical data on the display screen including conditions, medications, allergies ... communication interface 156 can optionally communicate with a remote data terminal to provide access to database system 76 or to a local hospital or emergency medical center for data transmission for emergency room notification)(page 13, lines 5-14 and 17-30).

software for digitizing, organizing and displaying said critical patient information in page formats for emergency medical treatment and other applications and usage (i.e. medical records database system for generating, maintaining and updating personal medical information records)(see Fig. 7A and 7B and page 7, line 20 - page 8, line 10) and software for controlling the internal logic of the portable field unit and the patient monitoring module and the base unit (see Fig. 1 and page 5)

Yeager does not explicitly disclose

a patient monitor module for interfacing the wireless critical patient information and data with an existing emergency room patient monitoring device

Art Unit: 3626

However, Sellers discloses a patient monitor module for interfacing the wireless critical patient information and data with an existing emergency room patient monitoring device (i.e. electronics module unit 20)(see Fig. 4, contacts in patient connector 18 are connected to analog circuit 50 and the analog circuit amplifies and processes ECG signals from the patient electrodes)(col. S, lines 19-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to include a patient monitor module for interfacing the wireless critical patient information and data with an existing emergency room patient monitoring device as disclosed by Sellers within the Yeager system for the motivation of providing a cheap and inexpensive system for transmitting medical information and personal information for emergency treatment (col. 2, lines 16-19 and lines 45-48).

Yeager and Sellers do not explicitly disclose

A portable storage card or disk for storing digital medical records

However, Wilcox discloses a portable storage card or disk for storing medical records (i.e. unit 115, col. 2, line 64 – col. 3, line 15). In Wilcox, the portable storage card includes personal, medical and significant historical medical information of the user used to treat the user when the user suffers an injury (col. 2, line 64 – col. 3, line 15 and lines 40-47). In addition, Wilcox discloses a data entry storage and retrieval device that includes software to arrange the patient information to assist a care provider in assisting a patient with their injuries (col. 3, lines 40-64). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitations as disclosed by Wilcox within Yeager and Sellers for the motivation of

providing a small, portable, easily worn electronic data storage device that can interface with an external accessing system (col. 1, lines 8-10)

As to claim 2, Yeager discloses the apparatus of claim 1 wherein the interface wand is capable of capturing said digital medical records by non-contact optical or wireless means (i.e. medical information from datacell 24 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datacel124 in wireless fashion)(see Fig. 1 and page 5, lines 18-23)

As to claim 3, Yeager discloses the apparatus of claim 1 wherein the bodily worn device is capable of transmitting or receiving said digital medical records from the interface wand by non-contact optical or wireless means (i.e. medical information from datace1124 can be accessed

by handheld reading device 30 which includes datacell probe for electronically reading information from datace1124 in wireless fashion)(page S, lines 18-23).

As to claim 4, Yeager discloses the apparatus of claim 1 wherein the portable field unit is capable of receiving, storing and displaying said medical records on a lighted display screen via the interface wand (see Fig. 1 and Fig. 9).

As to claim 5, Yeager discloses the apparatus of claim 1 wherein the portable field unit is capable of wireless transmission of the said digital medical records to said base unit (i.e. medical information from datacel124 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datace1124 in wireless fashion ... communication interface 156 can optionally communicate with a remote data terminal to provide access to database system 76 or to a local hospital or

Art Unit: 3626

emergency medical center for data transmission for emergency room notification)(page 5, lines 18-23 and page 13, lines 5-14).

As to claim 6, Yeager discloses the apparatus of claim 1 wherein the portable field unit is programmed with software to allow for the organization and display of said digital medical data (i.e. single keystroke brings up display of current medical conditions, existing conditions, and known allergies)(page 13, lines 17-31).

As to claim 7, Yeager discloses the apparatus of claim 1 wherein the interface wand is capable of transmitting or receiving wireless digital information from the said bodily worn device using optical or other wireless- non contact means (i.e. medical information from datacell124 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datacell124 in wireless fashion)(page 5, lines 18-23)

As to claim 8, Yeager discloses the apparatus of claim 1 wherein the base unit is capable

of receiving said digital records in a wireless fashion (i.e. medical information from datacell 24 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datacell124 in wireless fashion ...

communication interface 156 can optionally communicate with a remote data terminal to provide access to database system 76 or to a local hospital or emergency medical center for data transmission for emergency room notification)(see Fig. 1, page S, lines 18-23 and page 13, lines 5-14).

As to claim 9, Yeager discloses the apparatus of claim 1 wherein the base unit is capable of storing and organizing the medical records and critical information into prioritized pages for display and viewing (Fig. 7A and 7B).

As to claim 10, Yeager discloses the apparatus of claim 1 wherein the base unit contains software for the logic control of receiving said digital records, organizing said records in priority fashion and displaying said prioritized records on the display screen (i.e. allow the user to view the first of three medical screens, i.e., conditions, medications, allergies. The EXE button is pressed to view each screen)(Fig. 7A and 7B and page 13, lines 17-31).

As to claim 11, Yeager discloses the apparatus of claim 1 wherein the base unit is capable of archiving and storing multiple digital patient records for retrieval and review (page 7, lines 20-27).

As to claim 12, Yeager discloses the apparatus of claim 1 wherein the patient module is capable of interfacing with an existing emergency room patient monitor and receiving said wireless transmission of said medical records for display on said existing patient monitor in an emergency situation (i.e. optionally transmit the pertinent medical data forward to the emergency room staff using facilities equivalent to those used to forward EKG data)(page 6, lines 19-27).

As to claim 13, Yeager does not explicitly disclose the apparatus of claim 1 wherein the patient module contains an interface Printed circuit board with electronic contact pads,

Art Unit: 3626

or other suitable means, for transmitting power to the module board and for transmitting and receiving said digital patient medical records.

However, Sellers discloses wherein the patient module contains an interface Printed circuit board with electronic contact pads, or other suitable means, for transmitting power to the module board and for transmitting and receiving said digital patient medical records (i.e. electronics module includes printed circuit board ... processes signals from patient electrodes ...)(col. 4, lines 51-65, col. 5, lines 18-34 and col. 6, lines 3-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the patient module contains an interface Printed circuit board with electronic contact pads, or other suitable means, for transmitting power to the module board and for transmitting and receiving said digital patient medical records as disclosed by Sellers within the Yeager system for the motivation of recording and analyzing physiological data from a patient that is convenient to the patient without requiring specialized computers (col. 1, lines 49-57 and col. 2, lines 48-62).

As to claim 14, Yeager discloses the apparatus of claim 1 wherein the patient module contains an interface wand and electronic cable for capturing said digital records from said bodily worn device, using non-contact wireless means, and transmitting said records to the patient monitor for storage and display (i.e. medical information from datacel124 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datacel1124 in wireless fashion ... probe I/O port 160 and data probe 32)(see Fig. 1 and Fig. 8, page S, lines 18-23)

As to claim 15, Yeager discloses the apparatus of claim 1 wherein the system contains software and logic for the seamless storage, wireless transmission, receiving, prioritizing, creation of readable pages and displaying of said pages on a computer screen, patient monitor screen or other appropriate display device (Fig. 7A and 7B and page 5, lines 2-14).

As to claim 16, Yeager discloses a method for storing, retrieving or organizing medical records and other vital personal information from bodily worn storage devices (i.e. medical

information storage system including a portable data storage device worn by a person)(see abstract, Fig. 1), comprising:

providing a bodily worn storage device capable of storing digital medical records and other vital personal health/emergency information (i.e. portable data storage device unit 22 includes datacell which contains medical information specific to person wearing device)(page 5, lines 5-15, line 28 - page 6, line 2 and Table 1) and a means of transmitting and receiving said digital medical records to and from the bodily worn device in a wireless fashion from a wireless receiving transmitting wand which would be either attached to a portable storage device or a patient monitoring device (i.e. medical information from datacell 124 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datacell 24 in wireless fashion)(page 5, lines 18-23) and be capable of displaying said medical data and records on a computer display screen for use in a medical emergency or other situation (i.e. handheld reader displays the medical data on the display screen including

Art Unit: 3626

conditions, medications, allergies ... provides rapid access to critical patient medical data for paramedics, ER response teams and other medical personnel)(page 13, lines 17-30 and page 14, lines 1-6) and a means of transmitting said medical records from the portable field unit to a base unit for display and review by a medical professional (i.e. handheld reader displays the medical data on the display screen including conditions, medications, allergies ... communication interface 156 can optionally communicate with a remote data terminal to provide access to database system⁷⁶ or to a local

hospital or emergency medical center for data transmission for emergency room notification)(page 13, lines 5-14 and 17-30)

Yeager does not explicitly disclose

transmitting said medical records to a base unit for storage and archival purposes

However, Sellers discloses transmitting said medical records to a base unit for storage and archival purposes (i.e. wireless data modem permits transmissions and reception of data through cellular telephone network ... communicates and transmits information with a remote computer system)(col. 7, lines 54-67 and col. 8, line 26 - col. 9, line 10). It

would have been obvious to one of ordinary skill in the art at the time of the invention to include transmitting said medical records to a base unit for storage and archival purposes as disclosed by Sellers within the Yeager method for the motivation of providing subsequent diagnosis of a patient who is remotely located from a medical facility (col. 3, lines 37-55).

Yeager and Sellers do not explicitly disclose

Art Unit: 3626

A portable storage card or disk for storing digital medical records

However, Wilcox discloses a portable storage card or disk for storing medical records (i.e. unit 115, col. 2, line 64 – col. 3, line 15). In Wilcox, the portable storage card includes personal, medical and significant historical medical information of the user used to treat the user when the user suffers an injury (col. 2, line 64 – col. 3, line 15 and lines 40-47). In addition, Wilcox discloses a data entry storage and retrieval device that includes software to arrange the patient information to assist a care provider in assisting a patient with their injuries (col. 3, lines 40-64). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitations as disclosed by Wilcox within Yeager and Sellers for the motivation of providing a small, portable, easily worn electronic data storage device that can interface with an external accessing system (col. 1, lines 8-10)

As to claim 17, Yeager discloses the method of claim 16 further including organizing the digital medical records stored in the bodily worn device into electronic pages which are in a medically significant prioritized manner with most critical information in a life threatening situation be accessible first and lesser medical information and personal information be accessible secondary (i.e. allow the user to view the first of three medical screens, i.e., conditions, medications, allergies. The EXE button is pressed to view each screen)(page 13, lines 17-31).

As to claim 18, Yeager discloses the method of claim 16 further including transmitting said digital medical information from the bodily worn device to the portable field unit using optical or other wireless means via a wand or other suitable means (i.e. medical

information from datacel124 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datacell 24 in wireless fashion)(see Fig. 1, page S, lines 18-23).

As to claim 19, Yeager discloses the method of claim 16 further including means of storing, organizing, prioritizing and displaying said digital medical records on the portable unit for emergency medical treatment (i.e. single keystroke brings up display of current medical

conditions, existing conditions, and known allergies)(page 13, lines 17-31).

As to claim 20, Yeager discloses the method of claim 19 further including a means of transmitting the said medical records from the portable field unit via wireless or wired means to a base unit (i.e. medical information from datacell 24 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datacell 24 in wireless fashion)(see Fig. 1, page 5, lines 18-23).

As to claim 21, Yeager does not explicitly disclose the method of claim 16 further including a means of transmitting said digital medical records from the bodily worn device to a

multi use patient monitor via wireless non contact means (i.e. medical information from datacell 24 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datacel124 in wireless fashion)(see Fig. 1, page S, lines 18-23).

As to claim 22, Yeager discloses the method of claim 21 further including a means of organizing , prioritizing and displaying said medical records on the patient monitoring

Art Unit: 3626

screen for emergency medical or other medical usage (i.e. single keystroke brings up display of current medical conditions, existing conditions, and known allergies)(page 13, lines 17-31) .

As to claim 23, Yeager discloses the method of claim 20 further including a means of transmitting said digital medical records from the portable field unit to a base unit via wireless or wired means (i.e. medical information from datacell 124 can be accessed by handheld reading device 30 which includes datacell probe for electronically reading information from datacell 24 in wireless fashion ... communication interface 156 can optionally communicate with a remote data terminal to provide access to database system 76 or to a local hospital or emergency medical center for data transmission for emergency room notification)(page 5, lines 18-23 and page 13, lines 5-14.

As to claim 24, Yeager discloses the method of claim 23 further including a means of organizing, prioritizing and displaying said medical records within the base unit for emergency

medical treatment (i.e. allow the user to view the first of three medical screens, i.e., conditions, medications, allergies)(page 13, lines 17-31).

As to claim 25, Yeager discloses the method of claim 24 further including a means of prioritizing medical records in a medically significant fashion so most critical life saving medical information, tailored to the individual wearing said bodily worn device, is displayed first in a medical emergency and secondary medical information is displayed secondary on subsequent sequential pages (i.e. allow the user to view the first of three

Art Unit: 3626

medical screens, i.e., conditions, medications, allergies. The EXE button is pressed to view each screen)(page 13, lines 17-31).

As to claim 26, Yeager discloses the method of claim 16 further comprising a means to allow for a common software language so that the digital information and medical records within the bodily worn device is compatible with the portable unit, the patient monitor and the base unit in a seamless and efficient manner (i.e. database management system hosted on a Windows based computing platform)(page 7, lines 20-27).

As to claim 27, Yeager discloses the method of claim 16 further comprising a means of updating an individuals digital medical records within the bodily worn device via transmission of updated data from the base unit or portable unit to the bodily worn device via wireless or wired means (see Fig. 1, units 26 and 28 and page S, lines 14-18).

As to claim 28, Yeager discloses the method of claim 16 further comprising a means of erasing data within a bodily worn device and re-writing new and/or updated digital medical records within the bodily worn device via wired or wireless transmission from the portable field unit or the base unit (see Fig. 1, units 26 and 28 and page 5, lines 14-18 and page 11, line 9 - page 12, line 11).

Response to Arguments

11. Applicant's arguments filed 9/24/2003 have been fully considered but they are not persuasive. Most of Applicant's arguments are directed to features or limitations which are not supported in the original specification. As such, these arguments are

moot. Furthermore, since the amendment was deficient, the amendments to the claims were not entered and therefore, the newly added features were not considered by the Examiner.

12. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pat. No. 5,337,290 directed to a health watch which stores critical medical data.

Pat. No. 5,499,626 discloses an individual descriptive record system for storing descriptive data and identification data on a data storage module.

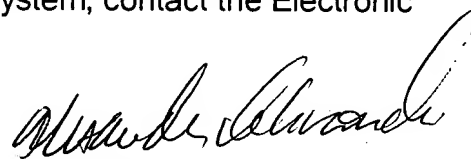
Pat. No. 5,693,076 discloses storing patient related data on implanted medical devices.

Pat. No. 6,021,393 discloses a portable medical card storing a patient's personal medical information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Kalinowski whose telephone number is (571) 272-6771. The examiner can normally be reached on Monday to Wednesday, 9:00 am to 6:30 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alexander Kalinowski
Primary Examiner
Art Unit 3626

7/10/2005